IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 30624 of 2006(U)

AGAINST THE ORDER IN EA.2853/04,EP.142/03 IN
OS.1860/2000 of PRL.MUNSIFF COURT,THRISSUR

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PETITIONER:

MINI BABU, W/O.T.P. BABU,
THANIKKAMATTAM HOUSE, ERAVIMANGALAM VILLAGE,
THRISSUR TALUK.

BY ADV. SRI.BABU S. NAIR

RESPONDENT:

SAMPANNA KURIES & LOANS (P) LTD.,
THRISSUR, REPRESENTED BY ITS CHAIRMAN.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE DRAFT SALE PROCLAMATION FILED BY THE RESPONDENT IN EP NO.142/2003IN OS NO.1860/2000 BEFORE THE MUNSIFF COURT, THRISSUR DT.19.2.04.

EXT.P2 : TRUE COPY OF THE PETITION FILED BY THE PETITIONER AND HER HUSBAND AS EA NO.822/04 IN EP NO.142/03 DT.26.3.04 BEFORE THE MUNSIFF COURT, THRISSUR.

EXT.P3 : TRUE COPY OF THE OBJECTION FILED ON 13.7.04 BY THE RESPONDENT TO EXT.P2.

EXT.P4 : TRUE COPY OF THE PETITION FOR DELIVERY OF PROPERTY FILED BY THE RESPONDENT AS EA NO.2853/04 BEFORE THE MUNSIFF COURT, THRISSUR DT.31.10.04.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 30624 OF 2006

Dated this the 11th day of July, 2007

JUDGMENT

The judgment debtor has filed this writ petition impugning an order of delivery passed by the execution court in respect of the property belonging to the petitioner which was purchased in auction by the decree holder. While admitting this writ petition, this court became inclined to grant stay only on condition that the petitioner deposits a sum of Rs.10,000/- on or before 30.11.06 and continues to remit at the rate of Rs.3,000/- per month payable on or before the last working day of every month commencing from December 2006. The order also stated that if the petitioner defaults, the interim order will stand recalled automatically. Neither side is able to inform me whether the condition imposed by this court in the interim order dt. 20.11.2006 have been complied with by the petitioner.

At any rate, I am of the view that the interim order grants to the petitioner all reliefs which he could have legitimately aspired for. The interim order is made the final judgment in the writ petition itself. The Writ Petition will stand disposed of in view of the above interim order. It is clarified that if the petitioner does not comply with any of the conditions, he will forfeit the benefit of this judgment and the impugned

order will revive. Once he discharges the instalments without default and becomes confident of having wiped off all the amounts to the decree holder by way of interim order and also on account of the expenses in connection with the sale and purchase of the properties, it is open to him to file an application for recording full satisfaction and thereupon the court below will hear both sides and take a decision.

PIUS C. KURIAKOSE, JUDGE

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